In the Supreme Court of the United States

OCTOBER TERM, 1934.

No. 854

A. L. A. SCHECHTER POULTRY CORPORATION, SCHECHTER LIVE POULTRY MARKET, JOSEPH SCHECHTER, MARTIN SCHECHTER, ALEX SCHECHTER, AND AARON SCHECHTER, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT

The respondent acquiesces in the granting of the petition.

The questions presented relate to the validity of the Act of June 16, 1933, known as the National Industrial Recovery Act, and of several provisions of the Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area in and about the City of New York, approved by the President under Title I of that Act.

Petitioners were each convicted on a number of counts contained in an indictment returned

against them in the Eastern District of New York. Verdicts of guilty were found and judgment entered on an aggregate of nineteen counts, of which eighteen alleged violations of certain provisions of the Code, and one alleged a conspiracy to violate the National Industrial Recovery Act and the Code. The judgment of the Circuit Court of Appeals affirmed the judgment of the District Court for the Eastern District of New York as to the conspiracy count and as to all of the remaining counts, excepting 46 and 55, which alleged, respectively, violations of the minimum wage and maximum hours provisions of the Code. Petitioners seek review of that part of the judgment of the Circuit Court of Appeals which affirmed the judgment of the District Court.

The provisions of the Code involved in this case, apart from the minimum wage and maximum hours provisions referred to, are the prohibitions of the purchase or sale of poultry unfit for human consumption (Code, Art. VII, Sec. 2), of the sale of poultry not inspected or approved in accordance with the ordinances and regulations of the City of New York (Art. VII, Sec. 22), of the use of any method of slaughtering other than "straight killing" (Art. VII, Sec. 14), and of the sale of poultry

to any person not licensed by the City of New York (Art. VII, Sec. 15), and the requirement of weekly reports on daily range of prices and volume of sales (Art. VI, Secs. 1, 2, Art. VIII, Sec. 3).

While respondent believes that the judgment of the Circuit Court of Appeals, insofar as it affirmed the judgment of the District Court, was correct, respondent acquiesces in the issuance of the writ because of the importance of the questions presented. A number of cases involving similar questions are pending in the lower Federal courts. These questions are of general public importance and should be settled by this Court. A bill to amend Title I of the National Industrial Recovery Act and to extend the date of expiration of that Title to June 16, 1937, has been introduced in the Senate (S. 2445, 74th Cong., 1st Sess.). This bill would continue in effect provisions for the approval of codes of fair competition. The questions presented, therefore, are not only of present importance but are likely to arise in the future.

In view of the immediate importance of this case, respondent respectfully requests, if the writ of certiorari is granted, that the Court set the case for argument during the session of this term of Court, beginning April 20, 1936, and preferably

during the week commencing May 6, 1935, if the Court is then sitting.

Respectfully submitted.

STANLEY REED,
Solicitor General.
HAROLD M. STEPHENS,
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CHAS. MCPHERSON,
M. M. HUDDLESON,
Special Assistants to the Attorney General.

APRIL, 1935.